



Billing Code: 4520-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. Facsimile: 202-693-9441.
3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite

4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2017-021-C.

Petitioner: Rosebud Mining Company, 301 Market Street, Kittanning, Pennsylvania 16201.

Mines: Lowry Mine, MSHA I.D. No. 36-09287 and Heilwood Mine, MSHA I.D. No. 36-09407, located in Indiana County, Pennsylvania; Penfield Mine, MSHA I.D. No. 36-09355, located in Clearfield County, Pennsylvania; and Mine 78, MSHA I.D. No. 36-09371, located in Somerset County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance), 18.35(a)(5)(i) (Portable (trailing) cables and cords)).

Modification Request: The petitioner requests the previously granted petition for modification, docket number M-2010-023-C be amended to add Fletcher Tilt Head Truss Bolters. The petitioner states that:

(1) Rosebud's original proposal was to use 480 volt trailing cables with a maximum length of 1200 feet when No. 2 American Wire Gauge (AWG) cable was used and 480 volt trailing cables with a maximum length of 950 feet when No. 4 AWG cable was used on Fletcher Roof Ranger II roof bolters.

(2) Rosebud is now requesting that Fletcher Tilt Head Truss Bolters be added to the original granted petition. The Fletcher Tilt Head Truss Bolters use the same No. 2 AWG 480 volt training cables as approved on the bolters listed in the previously granted petition, docket number M-2010-023-C.

(3) The petitioner proposes to use 480 volt trailing cables with a maximum length of 1200 feet when No. 2 AWG cable is used and 480 volt trailing cables with a maximum length of 950 feet when No. 4 AWG cable is used on Fletcher Tilt Head Truss Bolters using the following procedures:

(1) The trailing cable for the 480 volt Fletcher Tilt Head Truss Bolters will not be smaller than No. 4 AWG cable.

(2) All circuit breakers used to protect the No. 2 AWG trailing cable or the No. 4 AWG trailing cable exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 500 amperes. The trip setting of these circuit breakers will be sealed to insure that the settings on these breakers cannot be changed, and the breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the cables as listed above.

(3) Replacement circuit breakers and/or instantaneous trip units, used to protect No. 2 AWG trailing cable or the No. 4 AWG trailing cable will be calibrated to trip at 500 amperes, and will be sealed.

(4) All components that provide short-circuit protection will have sufficient interruption rating in accordance with the maximum calculated fault currents available.

(5) During each production day, the trailing cables, and circuit breakers will be examined in accordance with all 30 CFR provisions.

(6) Permanent warning labels will be installed and maintained on the load center identifying the location of each short-circuit protection device. The labels will warn miners not to change or alter the settings of these devices.

(7) If the affected trailing cables are damaged in any way during the shift, the cable will be deenergized and repairs made.

(8) The petitioner's alternative method will not be implemented until all miners who have been designated to operate the Fletcher Tilt Head Truss Bolter, or any other person designated to examine the trailing cables or trip settings on the circuit breakers have received proper training as to the performance of their duties.

(9) Within 60 days after the proposed decision and order (PDO) becomes final, the petitioner will submit proposed revisions for the approved 30 CFR Part 48 training plan to the District Manager. The proposed revisions will specify task training for miners designated to examine the trailing cables for safe operating condition and verify the short-circuit settings of the circuit interrupting device(s) that protect the affected trailing cables do not exceed the specified setting(s) in Item No. 4. The training will include the following:

- a. The hazards of setting the short-circuit device(s) too high to adequately protect the trailing cables.

- b. How to verify that the circuit interrupting device(s) protecting the trailing cable(s) is properly set and maintained.

- c. Mining methods and operating procedures that will protect the trailing cables against damage.

- d. The proper procedure for examining the trailing cable to ensure that the cable(s) is in safe operating condition by a visual inspection of the entire cable, observing the insulation, the integrity of the splices, and nicks and abrasions.

The procedure as specified in 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2017-022-C.

Petitioner: Rosebud Mining Company, 301 Market Street, Kittanning, Pennsylvania 16201.

Mines: Bergholz Mine, MSHA I.D. No. 33-04565, located in Jefferson County, Ohio; Harmony Mine, MSHA I.D. No. 36-09477, located in Clearfield County, Pennsylvania; Dutch Run Mine, MSHA I.D. No. 36-08701, Darmac #2 Mine, MSHA I.D. No. 36-08135, and Logansport Mine, MSHA I.D. No. 36-08841, located in Armstrong County, Pennsylvania; Knob Creek Mine, MSHA I.D. No. 36-09394, located in Indiana County, Pennsylvania; and Tusky Mine, MSHA I.D. No. 33-04509, located in Tuscarawas County, Ohio.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance), 18.35(a)(5)(i) (Portable (trailing) cables and cords)).

Modification Request: The petitioner requests the previously granted petition for modification, docket number M-2011-007-C be amended to add Fletcher Tilt Head Truss Bolters. The petitioner states that:

(1) Rosebud's original proposal was to use 480 volt trailing cables with a maximum length of 1200 feet when No. 2 American Wire Gauge (AWG) cable was used and 480 volt trailing cables with a maximum length of 950 feet when No. 4 AWG cable was used on Fletcher Roof Ranger II roof bolters.

(2) Rosebud is now requesting that Fletcher Tilt Head Truss Bolters be added to the original granted petition. The Fletcher Tilt Head Truss Bolters use the same No. 2 AWG 480 volt training cables as approved on the bolters listed in the previously granted petition, docket number M-2011-007-C.

(3) The petitioner proposes to use 480 volt trailing cables with a maximum length of 1200 feet when No. 2 AWG cable is used and 480 volt trailing cables with a maximum length of 950 feet when No. 4 AWG cable is used on Fletcher Tilt Head Truss Bolters using the following procedures:

(1) The trailing cable for the 480 volt Fletcher Tilt Head Truss Bolters will not be smaller than No. 4 AWG cable.

(2) All circuit breakers used to protect the No. 2 AWG trailing cable or the No. 4 AWG trailing cable exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 500 amperes. The trip setting of these circuit breakers will be sealed to insure that the settings on these breakers cannot be changed, and the breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the cables as listed above.

(3) Replacement circuit breakers and/or instantaneous trip units, used to protect No. 2 AWG trailing cable or the No. 4 AWG trailing cable will be calibrated to trip at 500 amperes, and will be sealed.

(4) All components that provide short-circuit protection will have sufficient interruption rating in accordance with the maximum calculated fault currents available.

(5) During each production day, the trailing cables and circuit breakers will be examined in accordance with all 30 CFR provisions.

(6) Permanent warning labels will be installed and maintained on the load center identifying the location of each short-circuit protection device. The labels will warn miners not to change or alter the settings of these devices.

(7) If the affected trailing cables are damaged in any way during the shift, the cable will be deenergized and repairs made.

(8) The petitioner's alternative method will not be implemented until all miners who have been designated to operate the Fletcher Tilt Head Truss Bolter or any other person designated to examine the trailing cables or trip settings on the circuit breakers have received proper training as to the performance of their duties.

(9) Within 60 days after the proposed decision and order (PDO) becomes final, the petitioner will submit proposed revisions for the approved 30 CFR Part 48 training plan to the District Manager. The proposed revisions will specify task training for miners designated to examine the trailing cables for safe operating condition and verify the short-circuit settings of the circuit interrupting device(s) that protect the affected trailing cables do not exceed the specified setting(s) in Item No. 4. The training will include the following:

- a. The hazards of setting the short-circuit device(s) too high to adequately protect the trailing cables.

- b. How to verify that the circuit interrupting device(s) protecting the trailing cable(s) is properly set and maintained.

- c. Mining methods and operating procedures that will protect the trailing cables against damage.

d. The proper procedure for examining the trailing cable to ensure that the cable(s) is in safe operating condition by a visual inspection of the entire cable, observing the insulation, the integrity of the splices, and nicks and abrasions.

The procedure as specified in 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2017-023-C.

Petitioner: Bronco Utah Operations, LLC, P.O. Box 527, Emery, Utah.

Mine: Emery Mine, MSHA I.D. No. 42-00079, located in Emery County, Utah.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery-powered nonpermissible electronic testing or diagnostic equipment within 150 feet of pillar workings. The petitioner states that:

(1) The use of nonpermissible low-voltage or battery-powered electronic testing and diagnostic equipment will be limited to: laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices; voltage, current, and power measurement recorders; pressure and flow measurement devices; signal analyzer devices; ultrasonic thickness gauges; electronic tachometers; and nonpermissible surveying equipment. Other testing and diagnostic equipment may be used if approved in advance by the MSHA District Office.

(2) Nonpermissible testing and diagnostic equipment will be used only when equivalent permissible equipment does not exist.

(3) All other test and diagnostic equipment used within 150 feet of pillar workings will be permissible.

(4) All nonpermissible electronic testing and diagnostic equipment used within 150 feet of pillar workings or longwall faces will be examined by a qualified person, as defined in 30 CFR 75.153, prior to being used to ensure the equipment is being maintained in safe operating condition. These examinations results will be recorded in the weekly examination of electrical equipment book and will be made available to MSHA and the miners at the mine.

(5) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment within 150 feet of pillar workings. The results of such examination(s) will be recorded as a special examination in the on-shift examination record books immediately after the shift on which the examination(s) were performed.

(6) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When a 1.0 percent or more methane concentration is detected while the nonpermissible electronic equipment is being used, the equipment will be deenergized immediately and withdrawn to fresh air (intake air entry) more than 150 feet outby pillar workings.

(7) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(8) Except for the time necessary to troubleshoot under actual mining conditions, coal production in the longwall section will cease. However, coal may remain in or on the equipment such as the pan line in order to test and diagnose the equipment under “load.”

(9) Nonpermissible electronic testing and diagnostic equipment will not be used to test equipment when float coal dust is in suspension.

(10) All electronic testing and diagnostic equipment will be used in accordance with manufacturer’s recommended safe use practices.

(11) Qualified personnel who use electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of the equipment.

(12) The petitioner will notify MSHA before nonpermissible electronic testing and diagnostic equipment is used within 150 feet of pillar workings. The notice will advise MSHA when any nonpermissible electronic testing and diagnostic equipment is put in service and give MSHA the opportunity to inspect such equipment before being used.

(13) Within 60 days after the proposed decision and order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR Part 48 training plan to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO.

The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and that the proposed alternative method will at all

times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2017-005-M.

Petitioner: Ernie Peachay, One Arizona Center, 400 East Van Buren Street, Suite 1900, Phoenix, AZ 85004-2202.

Mine: Old Smith Family Mine, Second Divide, Downieville, California 95936, MSHA I.D. No. 04-05820, located in Sierra County, California.

Regulation Affected: 30 CFR 57.4533 (Mine opening vicinity).

Modification Request: The petitioner requests a modification of the existing standard to the Old Smith Family Mine. A small underground gold mine established in the early 1930s. The petitioner states that:

(1) In lieu of the application of 30 CFR 57.4533 to the site, the petitioner proposes to install battery operated smoke alarms in the mine office and shed and to wire them to an alarm underground that will sound so as to immediately notify him of a surface fire in one of the buildings so that he may immediately exit the underground workings.

(2) The mine office and shed are historical structures that were built in the 1930s to support mining activities at the Old Smith Family Mine.

(3) It is not feasible to move these structures to further than 100 feet from the raises, or to meet the construction requirements of the standard. A fire suppression system would also be ineffective due to the freezing temperatures in the winter which disables the few water pipes on site.

(4) The standard as applied to this site provides little to no benefit for underground miner safety because the mine is located in a heavily forested area with trees as tall as 300 feet on the site. The small buildings at issue are dwarfed by the surrounding forest, which cannot be fireproofed.

(5) The underground workings are no more than 125 feet deep at the deepest point, and are so small that they can be evacuated from any point via one of 3 routes in less than 1 minute.

(6) To further reduce the risk of a surface fire impacting the petitioner when underground, smoking will be prohibited in all areas of the mine, and signs will be posted to provide notice to any third parties who may come onsite while he is underground.

(7) The modification to the standard as applied to the Old Smith Family Mine will provide greater safety protection than 30 CFR 57.4533 with respect to the hazard of surface fire impacting underground escapeways by providing an alarm sounding underground as soon as smoke detectors are triggered in the mine office or shed.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,
Director,
Office of Standards, Regulations, and Variances.
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